Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of	)	
	)	
Madison Rwer Telephone Company, LLC.	)	WC 02-371
Tariff FCC No. 1, Transmittal No. 9	)	
	)	
	)	

ORDER

Adopted: November 25,2002 **Released: November 25,2002**

Direct Case Due by: December 18,2002
Oppositions to Direct *Case* Due by: January 8, 2003
Rebuttal Due by: January 15,2003

By the Chief, Pricing Policy Division:

I. INTRODUCTION

1. In this order, we designate for investigation, pursuant to sections **204** and 205 of the Communications Act of 1934, as amended (the Act),[1] certain issues regarding the rates, terms, and conditions in tariff Transmittal No. 9 that Madison River Telephone Company, LLC. (Madison River), filed to become effective October 9, 2002.[2] We suspended Transmittal No. 9 for five months on October 8, 2002, and initiated this investigation.[3] Madison River's tariff revisions would increase the traffic sensitive switched and special access recumng rate elements in its interstate access tariff. In this filing, Madison River is increasing the uncollectible portion of the traffic sensitive test period revenue requirement in its 2002 Annual Access Tariff filing by approximately $424,000.[4] As discussed below, we designate for investigation issues relating to the increased rates proposed in tariff Transmittal No. 9 to ensure that they are not unjust or unreasonable in violation of section 201 of the Act.[5]

[1] **47** U.S.C. §§ **204** and 205

[2] Madison River Telephone Company. *LLC..* Tariff FCC **No.** *1, Transmittal* No. *9* (tiled Sept. *24, 2002).* The affiliated carriers for wtuch the tariff is tiled are Gallatin Rwer Communications, LLC.. and Gulf Telephone Company.

[3] *Madison* ***River*** *Telephone Company LLC.. Tariff FCC No 1, Transmittal No. 9,* Order. **DA 02-2583** (WCB/Pricing, released Ocr. 8, 2002).

[4] Madison River Telephone Company. LLC.. Tariff FCC No. 1, Transmittal No. 9, Description and Jusrification at attachment titled "Carrier Bad Debt Reserve" (filed Sept. **24, 2002)**.

[5] **47** U.S.C. § 201

II. RACKGROUND

2. A brief overview of the Commission's policies concerning security deposits and treatment of uncollectibles would be useful to the discussion of the issues presented by the present tariff revisions. Existing incumbent local exchange carrier (LEC) interstate access tariffs contain protections for uncollectibles. In 1984. the Commission rejected incumbent LECs' proposed security deposit tariff language and instead permitted dominant LECs to require security deposits from: (1) those carriers that have a proven history of late payments to the LEC; and (2) those carriers that have no established credit.[6] These provisions since have become a standard term in interstate access tariffs.' In 1987, the Commission addressed a BellSouth proposal to reduce the notice it must give to terminate service for nonpayment to 15 days from 30 days. The Commission allowed a 15-day notice period only if the customer received its bill within three days after the billing date.'

3. The Commission's raternaking policies for incumbent LECs also account for interstate uncollectibles and provide for their recovery through interstate access charges. For rate-of-return camers, uncollectibles are reflected in the rate base that they use to calculate the 1I .25 percent allowed rate of return An increase in uncollectibles will result in higher rates the following year. Upon a proper showing of an extraordinary rise in uncollectibles, rate-of-return carriers may file mid-term corrections to raise their rates to target an 11.25 percent rate of return.[9]

4. In this filing, Madison River proposes to increase the uncollectible portion of the traffic sensitive test period revenue requirement in its 2002 Annual Access Tariff filing by approximately $424,000.[10] Madison River states that three recent bankruptcies indicate that increased uncollectibles will be realized in the future. Madison River states that absent the rate adjustments reflected in this filing, each company's return on investment will be less than the cost of capital and will produce a disincentive toward investment in telecommunications infrastructure." On October 1, 2002. AT&T Corp. (AT&T) filed a petition to reject or suspend and investigate Madison River's tariff." On October 4, 2002, Madison River filed its reply.[13]

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b *Investigation of Access and Divestiture Related Tariffs*. Phase 1 Order, CC Docket No. 83-1 145, 97 FCC 2d 1082, 1169 (1984).

In general, existing tariffs also provide thar deposits may not exceed the actual or estimated rates and charges for service for a two-month period.

8 *Annual 1987 Access Tariff Filings*, Memorandum Opinion and Order. 2 FCC Rcd 280, 304-05 (1986) BellSouth apparently never implemented this provision.

9 *See* 47 C.F.R. § 69.3(b).

10 Madison River Telephone Company. LLC.. Tariff FCC No. 1, Transmittal No. 9, Description and Justification at attachment titled "Carrier Bad Debt Reaene" (filed Sept. 24. 2002).

11 *Id*. ar 2.

12 Madison River Telephone Company. Inc.. Tariff FCC No. 1. Transmittal No. 9, AT&T Petition to Reject or Suspend and Investigate (Oct. 1. 2002) (*AT&T Petition*).

13 Madison River Telephone Company. LLC.. Tariff FCC No. 1, Transmittal No. 9, Reply of Madison River Telephone Company, LLC. (Oct. 4. 2002).

III. ISSUE DESIGNATED FOR INVESTIGATION

A. Reasonableness of the Proposed Increased Allowance for Uncollectibles

1. Background

5. AT&T asserts that Maaison River has not justified an increase in uncollectibles by any rationally anticipated risk of uncollectible revenue from access customers." AT&T further asserts that Madison Rwer receives sufficient protection from the risks of nonpayment by access customers because its existing access tariff permits Madison River to demand security deposits from customers with "a proven history of late payments" or with no "established credit."[15] Finally, AT&T asserts that Madison River has not shown that its proposed increase (or, indeed, any increase) to its interstate revenue requirement is necessary to provide Madison River with its allowed rate of return, noting that it has a history of exceeding its established rate of return.''

B. Discussion

6. The issue designated for investigation is whether the increased allowance for uncollectibles and the resulting increase in interstate access rates are just and reasonable within the meaning of section 201(b) of the Act. The interstate access market has two distinct characteristics – Madison River must provide access services to interexchange carriers (IXCs) and competitive LECs requesting such service. and those carriers must use access services provided by Madison River to originate or terminate many of their interstate calls. The revisions raise the question whether circumstances have changed so as to warrant increasing the allowance for uncollectibles in establishing Madison River's interstate access charges. We therefore direct Madison River to respond to the matters discussed below and provide the requested information in its direct case. Nonetheless, Madison River may, as pan of its direct case, seek lo justify its increase in the allowance for uncollectibles and the resulting higher interstate access charges.

7. In support of its tariff filing, Madison River provided a detailed description of the method it used to estimate the level of uncollectibles. As part of its direct case, Madison River shall explain why it used 16 months rather than 22 months (which would reflect the remainder of the two-year tariff period) in determining the number of months to be used in calculating the monthly accrual of uncollectible interstate access revenues for its traffic-sensitive revenue requirement since the tariffperiod runs through June 30, 2004. Madison River shall provide an analysis of uncollectible amounts from an historical perspective, as well as an analysis of current telecommunications market conditions. To that end. we direct Madison River to submit the level of uncollectible debts from interstate carrier access services along with the associated total interstate carrier access revenues and the actual return on investment for the years 1990 to the present. For the period from January 2000 to July 31, 2002, Madison Rwer shall also provide the totals of each of the individual defaults grouped into the following ranges: less than 5100.000; 5100,001-250.000: S250,001-S500.000: 5500,001-$1,000,000; and more than $1,000,000. For each range. Madison River shall indicate the number of defaulting entities.

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14 *AT&T Petition* at 2

15 *Id.* at 5.

16 *Id.* at 1.

Madison River shall then address whether the variation in uncollectible levels for *2000* and 2001 is merely a normal fluctuation in uncollectibles, which would be covered by the business risks anticipated in the 11.25 percent authorized rate of return. or whether it reflects some long term trend that warrants increasing the allowance for uncollectibles in the calculation of Madison River's interstate revenue requirement. Madison River should expand on its analysis of the risk of default among its customers. Madison River should indicate whether the increase is expected to cover the default of several smaller customers or one or two bigger ones. In addition, Madison River shall explain how the three bankruptcies it cites. ITC-Deltacom, Global Crossing, and WorldCom, can provide a basis for determining any future uncollectible levels. Madison River shall explain why the assumption that the recovery of pre-petition billing for current bankruptcies will equal the 12% recovery projected for Global Crossing when calculating the target reserve for carrier uncollectibles.[17] Madison River shall also indicate the total dollar amount of security deposits held by its carrier participants that are attributable to interstate access services and the percentage relationship of that amount to average monthly interstate access billings. Madison River shall then address how it factored those deposits into its calculation of the allowance for uncollectibles that should be accrued, and, if it did not consider those deposits, it should indicate the modifications to its allowance for uncollectibles that should be made.

8. To assist us in evaluating the market, Madison River shall provide the following data on the distribution of its revenues for calendar year *2001*. First, Madison River shall indicate the share of its revenues that come from each of the following types of customers: IXCs, competitive LECs, other incumbent LECs through arrangements such as meet-point billing, and businesses. Madison River shall also indicate the extent to which it has a debtor relationship with its customers and how that may affect its credit risk. *e.g.*, through offset in a bankruptcy proceeding. Madison River shall also provide data covering the period from January 1, 2001, to June 30, *2002*, on the percentage of revenues in default that are attributable to services billed in arrears and the percentage attributable to special access services. Madison River should indicate the amount of unpaid bills of defaulting customers that have gone into bankruptcy since January 2000 and the percentage of that amount that has been recovered through bankruptcy proceedings.

9. If Madison River believes that the risk of uncollectible debts has increased permanently, it should explain what accounts for this change, *e.g.*, the general economic climate or some structural change in the market. If the change is a structural one, are there methods other than its proposal to increase the allowance for uncollectibles that would adequately address this additional risk, *e.g.*, is there a subset of camers that can be identified that are the major cause of the increased risk? Madison River should also discuss any other steps it might take to mitigate the risk. For example, could it adopt some form of advance payment for services currently billed in arrears and. if so. what modifications to its tariff and billing programs would be necessary? How difficult would it be to implement such changes? Finally, Madison River shall describe how, for ratemaking purposes. it addresses defaults occurring before the effectiveness of any tariff to ensure that any tariff revisions are not designed to recover retroactively losses due to earlier nonpayment events (*i.e.*, how does it avoid retroactive ratem'aking?).

[17] Madison River Telephone Company. LLC.. Tariff F.C.C. No. 1 Access Service Transmittal No. **9**, Description and Justification at 6.

IV. PROCEDURAL MATTERS

A. Filing Schedules

10. This investigation is designated WC Docket No. 02-371. Madison River Telephone Company, LLC., is designated a party to this investigation. Madison River shall file its direct case no later than December 18,2002. The direct case must present Madison River's position with respect to the issues described in this Order. Pleadings responding to the direct case may be filed no later than January 8, 2003, and must be captioned "Oppositions to Direct Case" or "Comments on Direct Case." Madison River may file a "Rebuttal" to oppositions or comments no later than January 15, 2003.

11. *An* original and four copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall serve with three copies: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street. S.W., Room 5-A104, Washington, D.C. 20554, Attn: Julie Saulnier. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. Such comments should specify the docket number of this investigation, WC Docket No. 02-371. Parties are also strongly encouraged to submit their pleadings via the Internet through the Electronic Comment Filing System at <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is WC Docket No. 02-371. Parties may also submit an electronic comment via Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply. Finally, an e-mail of the direct case, oppositions/comments, and replies should be sent to parties to the proceeding and to Julie Saulnier at jsaulnie@fcc.gov. For this purpose, Madison River shall treat the parties petitioning against Transmittal No. 9 as parties to whom an e-mail should be sent.

12. Interested parties who wish to file comments via hand-delivery are also notified that effective December 18, 2001, the Commission will only receive such deliveries weekdays from 8:00 a.m. to 7:00 p.m., via its contractor. Visrronix, Inc., located at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20007. The **Commission no longer accepts these filings at 9300 East Hampton Drive, Capitol** Heights, **MD 20743.** Please note that all hand deliveries must be held together with rubber bands or fasteners, and envelopes must be disposed of before entering the building. In addition. this is a reminder that as of October 18, 2001, the Commission no longer accepts hand-delivered or messenger-delivered filings at its headquarters at 445 12th Street, SW, Washington, DC 20554. Messenger-delivered documents (*e.g.*, FedEx), including documenis sent by overnight mail (other than United States Postal Service (USPS) Express and Priority Mail). must be addressed io 9300 Easr Hampton Drive, Capitol Heights, MD 20743. This location is open weekdays from 8:00 a.m. to 5:30 p.m. USPS First-class, Express, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554. The following chart summarizes this information:

TYPE OF DELIVERY	PROPER DELIVERY ADDRESS
Hand-delivered paper filings	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (Weekdays - 8:00 a.m. to 7:00 p.m.)
Messenger-delivered documents (*e.g.*, FedEx), including documents sent by overnight mail (this type excludes USPS Express and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (Weekdays - 8:00 a.m. to 5:30 p.m.)
USPS First-class, Express, and Priority Mail	445 12th Street, SW Washington. DC 20554

13. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information. or a writing containing the nature and source of such information, is placed in the public file. and provided that the fact of reliance on such infoimation is noted in the order.

Ex Parte Requirements

14. This investigation is a permit-but-disclose proceeding and is subject to the requirements of section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.[18] Other rules pertaining to oral and written presentations are also set forth in section 1.1206(b).

15. Interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A104, Washington, D.C. 20554, Attn: Julie Saulnier. Parties shall also serve with one copy: Qualex International, Portals 11,445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) S63-2893.

Paperwork **Reduction** Act

16. This order designating issues for investigation contains no new or modified information collections subject to the Paperwork Reduction Act of 1995, Pub. Law 104-13.

V. ORDERING CLAUSES

17. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i), 4(j), 201-205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201-205, and 403, and pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

[18] *See* 47 C.F.R. § 1.1206(b)(2), as revised

18. IT IS FURTHER ORDERED that Madison River Telephone Company, LLC., SHALL BE **a** party to this proceeding.

19. IT IS FURTHER ORDERED that Madison River Telephone Company, LLC., SHALL INCLUDE, in its direct case, a response to each request for information that it is required to answer by this Order.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Pricing Policy Division
Wireline Competition Bureau